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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 186 of 2015

IN

CRIMINAL APPEAL No. 189 of 2015

Atul Anilkumar Chaturvedi

..Applicant/Appellant.

Vs

State of Maharashtra

..Respondent.

Mr R.N. Sukhija, Advocate for the Applicant/Appellant.

Mrs P.P. Bhosale, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 8th July, 2015

P.C. :

1 Heard rival submissions on this application for bail during the pendency of the appeal. The appeal is already admitted. The applicant is convicted for the offence under punishable under section 376 of IPC and sentenced to suffer RI for seven years and to pay a fine of Rs.5000/-. He was also convicted for the offence under sections 328, 418 and section 3 (i) (xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and was sentenced to undergo different quantum and was directed to pay fine amounts. Reportedly, all the fine amounts are not paid by the applicant.

2 During the trial, the applicant was on bail. However,

during pendency of the trial, he did not attend the Court and as such arrest warrant was issued against him and the applicant was arrested and during such custody the trial proceeded and ended in conviction. The offence of forcible sexual intercourse and other offences occurred during the period from January, 2011 and lasted for few months. But there is no information from any of the witnesses as to on which exact date offence of sexual intercourse took place. The age of the prosecutrix is about 30 years and working as nurse in the hospital. Apparently, the case of the prosecution is that in order to get out of bad fortune and some set back position of the family of the woman the complainant party approached the applicant, apparently, for getting some religious Pujas to be performed. On his directions they paid him various amounts in thousand of rupees and apparently there was well acquaintance of the applicant with the prosecutrix.

3 According to her, on one day when she approached him and visited him in his office, he offered her tea and subsequently also gave her ice-cream and after consuming the said food item she became unconscious and subsequently regained consciousness and left the place. She did not suspect of any forcible act committed on her by that time. However, after four/five months she realized that she had conceived and as such urine test confirmed the pregnancy. Thereafter, in consultation with the parents and other relatives the complaint was lodged on or about 1st August, 2011, when the pregnancy has reached more

than seven months and there was no possibility of abortion to be legally done.

4 During the arguments, it is submitted that apparently it is a case of consensual act or otherwise there would not have been such a delay in lodging the complaint. It is also argued that during the trial the applicant was granted bail after his initial arrest on 3rd August, 2011. He was initially granted bail on 29th December, 2011. But then due to his ailment of fractured leg he could not attend the court and as such was rearrested in October, 2013 and since then he is in jail.

5 Considering the above circumstances and considering lodging of the complaint belatedly, in the opinion of this Court, there is some case in favour of the applicant insofar the defence is concerned and in that event considering that he was released on bail during the pendency of the trial, he can be released on bail during the pendency of the appeal. Hence, the order :

ORDER :

The application is allowed and disposed of as under :-

The applicant/accused be released on same bail as granted by the trial Court with fresh bonds to be executed before the trial Court. This order will be effective only after the payment of entire fine amounts by the applicant/accused which shall be deposited in the trial Court.

(A.R.JOSHI, J.)